PEARSON, J.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION

CICERO LAMPLEY,) CASE NO. 4:12 CV 2398
Plaintiff,) JUDGE BENITA Y. PEARSON
v.)) MEMORANDUM OF OPINION
UNITED STATES POSTAL SERVICE,) <u>MEMORANDOM OF OPINION</u>) <u>AND ORDER</u>
Defendant.)

On September 25, 2012, this case was removed from the Youngstown Municipal Court, Small Claims Division, pursuant to 28 U.S.C. § 1442(a), by the Defendant United States Postal Service. The action removed was filed by Plaintiff *pro se* Cicero Lampley, who seeks damages in the amount of \$3000 for Defendant's alleged failure to deliver his mortgage payment. Defendant filed a Motion to Dismiss and/or Motion for Summary Judgment (ECF No. 3) on October 9, 2012. Plaintiff has not filed anything in response to the Motion.

It is a jurisdictional prerequisite to a federal lawsuit that a claimant who seeks recovery from the United States must first file an administrative claim under the Federal Tort Claims Act ("FTCA"). *Rogers v. United States*, 675 F.2d 123, 124 (6th Cir. 1982). As there is no allegation Plaintiff presented an administrative claim to the appropriate federal agency, the Complaint is fatally deficient. *Altman v. Connally*, 456 F.2d 1114, 1116 (2d Cir. 1972).

Further, even had Plaintiff exhausted his administrative remedies, "[a]ny claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter," 28 U.S.C. § 2680, is

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barred by the doctrine of sovereign immunity. This is because such claims are specifically excluded under the FTCA. 28 U.S.C. § 2680(b); *Davric Maine Corp. v. United States Postal Service*, 238 F.3d 58, 62 (1st Cir. 2001).

Accordingly, the Motion to Dismiss and/or Summary Judgment is granted, and this action is dismissed. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

January 25, 2013

/s/ Benita Y. Pearson

Date

Benita Y. Pearson United States District Judge